

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7370

BILL NUMBER: SB 313

NOTE PREPARED: Jan 5, 2007

BILL AMENDED:

SUBJECT: Trademarks.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: This bill establishes that a color mark, scent mark, flavor mark, sound mark, or three dimensional mark may be registered under the state registration system if the mark meets certain conditions. The bill also provides that: (1) a person may file an application to register a trademark or service mark if the person has a bona fide intention to use the mark and if certain requirements are met; and (2) a court may award attorney's fees to a prevailing party in an action concerning marks. The bill removes the provisions concerning trade names from the trademark law. This bill eliminates the authority of the Secretary of State to require a person applying for registration of a mark to provide information on whether an application to register the mark has been filed in the United States Patent and Trademark Office.

Effective Date: July 1, 2007.

Explanation of State Expenditures: This bill will cause an increase in administrative costs to the Secretary of State (SOS) in requiring the amendment of forms, the development of procedures, and the adoption of rules concerning the changes in the bill related to trademark registration applications and by allowing registration of color, scent, flavor, sound, or three dimensional trademarks. It is anticipated that these provisions of the bill may be implemented through the use of existing staff and resources. Furthermore, these costs may be offset to the extent that more trademark applications filing fees are collected (see *Explanation of State Revenues* below).

Explanation of State Revenues: This bill allows registration of color, scent, flavor, sound, or three dimensional trademarks. By increasing the types of marks that may be registered, it is estimated that there will be an increase in fee revenue from the \$10 trademark application and renewal filing fees. The amount of this increase is indeterminable and will depend upon number of new marks registered. Revenue from these

fees are deposited in the state General Fund.

The bill also provides that a person may file an application to register a trademark or service mark if the person has a bona fide intention to use the mark and if certain requirements are met. Under current statute, a person may only file an application to register if the person has actually used the mark in Indiana. This change may also increase the number of registration applications filed and therefore increase fee revenue.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Secretary of State.

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Adam Brown, 317-232-9854.